

**Asst. Secy., for Public and Indian Housing, HUD**

**§ 970.33**

PHA is proposing to demolish not more than the lesser of:

- (1) five dwelling units; or
- (2) 5 percent of the total dwelling units owned by the PHA over any 5-year period.

(c) The 5-year period referred to in paragraph (a)(2) of this section is the 5 years counting backward from the date of the proposed de minimis demolition, except that any demolition performed prior to October 21, 1998, will not be counted against the five units or 5 percent of the total, as applicable. For example, if a PHA that owns 1,000 housing units wishes to demolish units under this de minimis provision on July 1, 2004, and previously demolished two units under this provision on September 1, 2000, and two more units on July 1, 2001, the PHA would be able to demolish one additional unit for a total of five in the preceding 5 years. As another example, if a PHA that owns 60 housing units as of July 1, 2004, had demolished two units on September 1, 2000, and one unit on July 1, 2001, that PHA would not be able to demolish any further units under this “de minimis” provision until after September 1, 2005, because it would have already demolished 5 percent of its total.

(1) In order to qualify for this exemption, the space occupied by the demolished unit must be used for meeting the service or other needs of public housing residents (use of space to construct a laundry facility, community center, child care facility, office space for a general provider; or for use as open space or garden); or

(2) The unit being demolished must be beyond repair.

(d) PHAs utilizing this section will comply with environmental review requirements at 24 CFR 970.13 and, if applicable, the requirements of 24 CFR 8.23.

(e) For recordkeeping purposes, PHAs that wish to demolish units under this section shall submit the information required in §970.7(a)(1), (2), (12), (13), and (14). HUD will accept a certification from the PHA that one of the two conditions in paragraph (c) of this section apply unless HUD has independent information that requirements

for “de minimis” demolition have not been met.

[71 FR 62362, Oct. 24, 2006, as amended at 73 FR 3868, Jan. 23, 2008]

**§ 970.29 Criteria for disapproval of demolition or disposition applications.**

HUD will disapprove an application if HUD determines that:

(a) Any certification made by the PHA under this part is clearly inconsistent with:

- (1) The PHA Plan;
- (2) Any information and data available to HUD related to the requirements of this part, such as failure to meet the requirements for the justification for demolition or disposition as found in §§ 970.15 or 970.17; or

(3) Information or data requested by HUD; or

(b) The application was not developed in consultation with:

(1) Residents who will be affected by the proposed demolition or disposition as required in § 970.9; and

(2) Each resident advisory board and resident council, if any, of the project (or portion thereof) that will be affected by the proposed demolition or disposition as required in § 970.9, and appropriate government officials as required in § 970.7.

**§ 970.31 Replacement units.**

Notwithstanding any other provision of law, replacement public housing units may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of the replacement public housing units is significantly fewer than the number of units demolished. Such development must comply with 24 CFR part 905, Public Housing Capital Fund Program, as well as 24 CFR part 941.

**§ 970.33 Effect on the Operating Fund Program and Capital Fund Program.**

The provisions of 24 CFR part 990, the Public Housing Operating Fund Program, and 24 CFR part 905, the Public Housing Capital Fund Program, apply.